

Barker Review of Land Use Planning

Final Report – Recommendations

Comments by the Royal Institute of British Architects

Introduction

The Royal Institute of British Architects is one of the most influential architectural institutions in the world, and has been promoting architecture and architects since being awarded its Royal Charter in 1837. The 35,000-strong professional institute is committed to serving the public interest through good design. It also represents 85% of registered architects in the UK through its regional structure as well as a significant number of international members. Our mission statement is simple – to advance architecture by demonstrating benefit to society and promoting excellence in the profession.

Summary

- Deregulation of the planning system must be counterbalanced by adding value to the system through design.
- Pre-application discussions should be encouraged. The current 8 and 13 week performance targets must be reviewed and their unintended consequences must be avoided by encouraging greater flexibility wherever appropriate.
- Duly-empowered design champions should be appointed at all levels and must be provided with the necessary skills and expertise. Local authorities should employ City Architects alongside Chief Planners.
- Design review panels should be used by every local planning authority.
- Bad design must not be tolerated.
- Design must be taken into account when assessing whether the costs of proposed development outweigh the benefits.
- VAT on development should either be harmonised, or other ways found to incentivise brownfield development and mitigate the effects of the VAT differential.
- National policy guidance should be streamlined, but not at the price of diluting guidance on ensuring high quality design.
- The Householder Development Consents review should be implemented, and permitted development extended, though caution is required regarding negotiated side-agreements.
- The planning system must directly support renewable energy generation.
- Planning departments need greater resources. Skills shortages among officials and elected representatives must be addressed.
- Some planning functions should be considered for outsourcing from local planning authorities.

General comments

The RIBA welcomed Kate Barker's final report when it was published in December 2006. Following the publication of the interim report in July 2006 the RIBA provided a written submission to the Barker Review team, and we were delighted that Kate Barker was keen to engage further with us personally. We are very pleased that many of our recommendations and suggestions have found their way into the final report. Our task is now to work with Government to ensure that those proposals are carried forward into the forthcoming Planning White Paper and any subsequent legislation or planning guidance.

The report's recommendations can be split roughly into two categories. The first set of recommendations is principally deregulatory, and concerns improving and streamlining the planning system. The second set of proposals seeks to add value to the planning system by ensuring that the importance of encouraging design quality is understood and built into the planning system. We believe that together, they produce a coherent package that should be fully implemented. To focus solely on the deregulatory recommendations without addressing the essential checks and balances offered by those that add value through design would be unacceptable, and quite contrary to the achievement of well-designed places and thereby the creation of sustainable communities.

A more sophisticated planning system would streamline process and bureaucracy, and place a greater emphasis on positive planning, place-making and the creation of successful neighbourhoods. Whilst planning policies and processes may change several times in the lifetime of development, a poor quality environment will blight it forever. Planning reform should consider quality of outcome and an efficient process.

We note that the review team has recognised the emergence of climate change as a policy driver. The built environment is a major polluter and intelligent building design, facilitated by sound planning decisions, is crucial if we are to reduce emissions. Achieving sustainability is now a primary aim of planning, and Government policy development points to a convergence of planning and building regulation over time. We suggest that the White Paper should be an opportunity for the Government to say more about its intentions in this respect, and we stand ready to advise the Government how best to frame a coherent planning and building control system that addresses sustainability and design issues most effectively.

The recommendations in the report concerning design are most important to us so we deal with those first. Thereafter, we address other recommendations on which we have views.

Comments on report recommendations

Recommendation 24 – design

This recommendation contains a number of components, all of which merit separate treatment. We cannot argue with the headline recommendation that decision-makers (elected members on local authority planning committees as well as planning officers) should give priority to ensuring that new development has high design standards, both for function and appearance.

There is an urgent need, however, for design matters to be dealt with in a more professional, rational and consistent manner within the planning system. The experience of many architects is that “lowest common denominator” prejudices are applied in decision-making in a manner which is contrary to national and local policy and guidance. This results in capricious decisions based on the mistaken belief that there can be no objective basis to the evaluation of designs. Poor or banal schemes are frequently approved, while good quality schemes struggle to obtain consent. There is a desperate need for detached, objective expert advice on design to inform decision-making within the planning system at all levels.

Design coding

We can support design coding where it is used strategically and carefully in the context of master-planning to assist good design. Our fear of design coding has always been that it can be misapplied in a way that is over-prescriptive and encourages formulaic responses. We would add a further nuance to the recommendation: there is a risk that encouraging “design codes [that] do not ... exclude contemporary architecture” could have the unintended consequence of discouraging traditional forms of architecture. We also suggest that design codes should be re-termed “design guidance” in order to overcome perceptions that they are inflexible.

Where design codes are to be developed, we support the report’s recommendation that local planning authorities should work with architects alongside urban designers and other built environment professionals in the development of individual codes.

Pre-application discussions

We have always supported measures that encourage a genuine and productive dialogue between designers and planners. Care should be taken to allow time and space in the planning process for such discussions to take place. We would further submit that there similarly needs to be proper opportunities for designers and planners to discuss applications once a planning application has been made. At present, however, this is difficult because of the 8 and 13 week targets for considering planning applications. The current targets have thrown up a set of unintended consequences which must be addressed.

The targets, which were introduced as a well-meaning attempt to incentivise local planning authority performance, have actually had quite the opposite effect. Many quite straightforward applications are rejected on a technicality around the 8 week mark before the substantive planning issues can be resolved. So while the planning authority can claim to have met its process target, applicants find themselves having to resubmit their application. The consequences are delays for applicants, increased caseloads for planning authorities as repeat applications are made, and a mushrooming of those applications which are then taken to appeal.

We recommend that the effectiveness of the targets should be investigated with a view to introducing greater flexibility into the system to enable meaningful discussions on applications to take place. At present, there is provision for applicants and local planning authorities to agree in writing to an extension to the 8 or 13 week targets. Where such an extension has been agreed, we recommend that performance should

be measured against mutually agreed targets, rather than continuing to be measured against the 8 or 13 week targets as present.

Case study

Associated Architects were recently responsible for a major mixed use development in Birmingham City Centre. During the detailed design stage and over a four-month period, the firm held joint design reviews with their client, local authority planning and conservation officer, English Heritage and other key stakeholders. Many key decisions were agreed during a constructive and transparent process. Having been part of the design process, the planning officials had a clear understanding of the scheme which, once submitted for planning approval, easily progressed to a recommendation within a 13 week period.

Design champions

The RIBA's *A Manifesto for Architecture*, published in April 2005, recommended that design champions should be appointed in regional assemblies, regional development agencies and local authority cabinets, duly empowered to give a clear lead and insist upon the importance of good design. We are pleased that the report endorses their appointment at all levels and recognises the importance of ensuring they have the necessary skills and expertise.

For us, however, the key point is that they should be duly empowered – in other words they should have sufficient clout within their organisations to make a difference.

Case study

In Doncaster, the design champion is the elected Mayor, Martin Winter. He has taken personal responsibility for ensuring that design quality is fully considered when making planning decisions. In taking advice from design professionals, he believes that Doncaster's prosperity will owe much to raising both the quality of design in the town and the quality of the discussion.

Design review panels

We support the use of design review panels at regional and local level and the recommendation that they should be integrated within the pre-application discussion process. The highly-respected national scheme provided by the Commission for the Built Environment offers a model that should be rolled out at the regional, county and local authority levels as appropriate. At present, RIBA members participate on local design review panels in some areas with positive outcomes for their communities.

Case study

In North Staffordshire a design panel has been established by the North Staffordshire Architecture Centre group Urban Vision in partnership with CABE, the local regional development agency and local authorities in the area. It is chaired by leading architect Edward Cullinan and contains other architects, planning officers, urban designers and surveyors. Local authority design and historic environment champions are also invited to participate. It meets monthly to consider all schemes put forward by local authorities in North Staffordshire (including preliminary schemes) before submitting a design review report to the relevant local authority within ten days. The panel's recommendations are a material consideration in the exercise of the local planning authority's powers.

Design review panels enable developers and their design teams to engage with a well-supported panel representing the local authority and other interests. Comments are given without prejudice, and enable participants to develop a positive dialogue about their respective aspirations for the urban environment. Other benefits include raising the standard of design through informed criticism of proposals. Reports by design review panels can be used by local planning authorities to better understand the design quality of submitted schemes. By bringing decision-makers into a forum of informed discussion, vital skills and understanding can be shared and communicated at a political level.

Refusing poor design

Local authorities and Inspectors need to be given a clear statement that poorly-designed proposals should be turned down. As the report states, good design in planning attracts people, investment and activity to places. The inverse is true of bad design and it should not be allowed to pass through the system.

Elsewhere the report recommends developing the planning profession and enhancing the status of Chief Planners within local authorities. That is welcome but only goes so far. We would further recommend the creation of a network of City Architects within local planning authorities, with sufficient authority to be effective champions of good design and a resource for advice and information to their planner colleagues.

Case study

Birmingham and Leeds are both excellent examples of cities which have benefited from establishing senior staff posts to offer such leadership in design matters.

Recommendation 1 – presumption in favour of development

We support the recommendation that applications should be approved unless there is a good reason to believe the costs outweigh the benefits. That support is qualified,

however, as we would not support the implementation of recommendation 1 without that of recommendation 24. “Costs” should be interpreted to include design outcomes such as the physical impact of development on a neighbourhood: the costs of allowing poor design to pass can be measured in terms of aesthetics, economics and human activity. By giving high priority to design quality in the planning process there is a better chance that those costs can be avoided.

This recommendation is closely related to the issue of housing supply. If housing supply were less restricted, then design standards may be expected to rise as a result of competition whereas if supply continues to be heavily restricted within a planning system which is more permissive in other respects, then design standards may well fall. To deregulate without providing for better design-led decisions would be a recipe for a new generation of poor housing – the slums of tomorrow - and weakened neighbourhoods.

Recommendation 3 – updating national planning policy on economic development

We agree that there should be a positive approach to applications for change of use class where there is no likelihood of demonstrable harm, in order to provide greater flexibility of use in the context of changing market conditions. Local authorities’ planning policies often contain too much pointlessly detailed specification of land use, especially in mixed residential and commercial areas.

Recommendation 8 – use of fiscal incentives to encourage an efficient use of urban land

The Report cites Kate Barker’s previous report on housing supply when dismissing the suggestion that VAT for renovation and new build should be equalised. We remain convinced that it is illogical that different rates still apply and continue to call for equalised VAT – at the lower rate – on all forms of construction in order to encourage regeneration, discourage unnecessary urban sprawl and protect the historic environment. Ministers need to be bold and address this important issue head-on with their European Union counterparts.

The current VAT regime is a disincentive for bringing forward brownfield sites for development. This is why a charge on vacant and derelict brownfield land may be superficially attractive but actually penalise well-meaning developers who work with tight margins and would otherwise develop such sites but for the fiscal implications. We have already called for Planning Gain Supplement, if implemented, to be levied at a lower rate for brownfield sites in order not to discourage their development further.

In the absence of VAT reform, we agree that the Government should explore reforms to Land Remediation Relief to help developers bring forward hard-to-remediate brownfield sites.

Recommendation 9 – review of green belts

We agree that the green belt policy is due for review. Refusals of small-scale developments on green belt land and the resultant appeals are a clog in an over-

burdening system. We hope that both a more positive approach to greenbelt development (while protecting and enhancing valued open space), and the reforms contained in the Householder Development Consents Review, will enable those applications which genuinely require fuller consideration to be properly processed.

Recommendation 14 – streamlining national policy guidance

We agree that there should be some streamlining of national policy. We believe that this can be achieved in part simply by removing repetition and duplication contained in the current national series of policy statements.

We disagree, however, with the implication in Box 4.2 (planning policy and spatial spillovers) that the production of guidance on the quality of design of new buildings belongs exclusively at the local level. At times local authorities need every encouragement to make planning decisions that take design quality fully into account. If recommendation 24 of the report is to be properly implemented, we submit that its points need to be framed within the streamlined national guidance that recommendation 14 suggests.

We believe that it is at the regional and local level where the streamlining of policy and guidance is most required. Much regional and local policy and guidance does little more than restate national policies at greater length, with less clarity and in unnecessary detail. This is particularly true of generic guidance on urban design and conservation where national policy and guidance can establish general principles which apply everywhere. Regional and local policy or guidance should limit itself to matters which are specific to the locality in question.

Recommendation 17 – reducing information requirements

We very strongly support reducing the information requirements to support planning applications, and in particular the recommendation that there should be a risk-based and proportionate approach to information requests. There is anecdotal evidence that some local planning authorities are “gold-plating” Government guidance and requiring more information from applicants than is necessary. We strongly support the ongoing work by the DCLG on the Householder Development Consents Review and it is logical that the “one size fits all” approach to planning applications causes unnecessary delay and insufficient regard by planners who are unable to devote close attention to those applications which require it.

It has been suggested that there should be a review of the points at which a firm planning decision is made – possibly by strengthening outline planning permission to establish the viability in principle of development by agreement of site constraints prior to embarking on the detailed design process. Such a masterplanning approach would, if applied to all but the smallest projects, involve elected members earlier in the development process. The lack of this earlier political engagement at present is a major bar to efficient working of the system. Such an approach would also reduce the risk to clients and therefore encourage them to commit appropriate resources to the detailed design stage.

Recommendation 18 – extending permitted development

The RIBA's *A Manifesto for Architecture* called on the Government to devise simpler procedures for small scale planning applications in order to reduce unnecessary burdens on an already overstretched planning system by streamlining processes wherever possible. We have previously welcomed the work currently under way through the Householder Development Consent Review and agree with the report's conclusion that it is sensible and welcome that planning effort and energy is diverted to where it matters most and householders freed from unnecessary burdens.

We therefore support the recommendation that permitted development rights for minor consents should be widened by extending the “impact” principle of the Householder Development Consent Review. We note that work is already under way to redraft the General Permitted Development Order and we look forward to further announcements by Government.

We are cautious, however, about the proposed development of a voluntary new system of negotiated side-agreements which we believe could be open to abuses of various kinds. Decisions on planning matters should be made on sound planning grounds and not whether a neighbour will accept a financial settlement. While neighbours can move on, bad design has a degree of permanence.

A Manifesto for Architecture stated that the planning system should be sympathetic to domestic renewable energy generation. This principle now has widespread support and it is encouraging to see it developed further with the recommendation that permitted development rights should be extended to cover microgeneration equipment for small businesses alongside homes.

The Sage case

Recommendation 18 is predicated on “focussing on what matters”. A major concern for many architects has been the damaging interpretation by some planning authorities of the the House of Lords’ judgement in *Sage v. Secretary of State for the Environment, Transport and the Regions* [2003]. Those authorities are insisting that any deviations from approved plans will require a new permission, as opposed to being dealt with by way of minor amendments as had been the case previously. This is obstructive and flies in the face of the realities in which project designs develop. While informed legal opinion suggests this interpretation of *Sage* to be incorrect, the Government has so far said that the matter is one for local authorities alone. If the Government wants a coherent and streamlined planning system, it must act to remedy the unnecessary harm being done by some authorities’ application of *Sage*.

Recommendation 19 – a more efficient planning system

We warmly support the report's proposals to make the planning system more efficient. In particular we welcome the proposed greater use of pre-application discussions as already noted above. We recommend that such discussions should be

properly recorded so that they can be referred to, if necessary, at later points in the planning process. Where local authorities charge for pre-application discussions, we recommend that charges should not only be kept low so as not to discourage the service, but that charges should be set nationally to avoid unnecessary regional variations.

We support the roll-out of Planning Delivery Agreements to enable a more flexible approach to be taken with larger applications where strict adherence to the current national targets could be counter-productive. While we support the principle of time targets, as noted above, we do believe that some flexibility needs to be built into the system to allow proper discussions between applicants and planners to take place without fear of the time-target “guillotine”.

While we agree that Section 106 agreements or tariffs should be negotiated and concluded at an early stage, we feel that too many applications are being rejected currently because, for example, Section 106 information was not received within the 8- or 13- week deadline. Again we feel that a degree of flexibility needs to be introduced into the system.

Recommendation 21 – improving planning skills and resources

A Manifesto for Architecture called for investment in a planning system where planners are valued and equipped with a sound understanding design. We noted then, and note again, that the system suffers from a lack of resources, low morale and self-confidence.

While recommendation 21 (alongside recommendation 20) raises the use of resources for planning departments, we feel that the report could have argued for greater financial resources to planning departments other than those arising out of efficiency savings. The planning system is enormously overstretched and while it remains a relatively poorly-paid profession it will be difficult to recruit and retain skilled planners. We hope therefore that the Government will look to increase resources to planning departments and suggest the response to the forthcoming Lyons Review and the 2007 Comprehensive Spending Review are opportunities to address this.

The introduction of fees for lodging planning appeals should also be considered, with costs borne by the losing party. This would discourage frivolous or opportunistic appeals and would encourage a more careful assessment of initial applications by local planning authorities.

We agree with the report’s recommendations for developing the planning profession and enhancing the status of Chief Planners within local authorities. As previously noted, we agree that planners’ attention should focus on the most complex cases. Improved resources, skills development (including design training) and empowerment among planning officers would enable councillors to focus more on strategic issues and less on design control.

We strongly support the recommendation of compulsory training for planning committee members and increased training for officers. This training must include developing their understanding of design issues. RIBA members around the country would be very happy to play their part in developing design awareness among planners – perhaps through mentoring or participating in more formal training

schemes and there could also be opportunities for schools of architecture to play a part in this process.

Recommendation 22 – interaction with external organisations

Our *Manifesto for Architecture* suggested that planning paperwork for all straightforward cases could be delegated to approved planning consultants. Just as building control can be outsourced to qualified individuals, consideration should be given to allowing planning applicants similarly to consult external expertise on issues ranging from conservation to landscape. Such external individuals would, of course, have to be suitably qualified and their work subject to a degree of official and democratic oversight by planning officers and councillors respectively. Such a system would further remove caseload pressure from local planning departments and enable better decision-making. We would encourage the Government to consider this suggestion and bring forward its own proposals.

Recommendation 31 – community goodwill payments

We are concerned that the introduction of community goodwill payments could encourage short-term financial gain to prevail over longer-term environmental considerations. This may lead to accusations of bribery or worse.

Next steps

We hope that the Government will work closely with the RIBA as it develops its Planning White Paper. We stand ready to assist both that work and any subsequent changes to legislation, planning guidance or other government policies.